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Paper No. 16

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SEP 01 2004

In re Application of	:	OFFICE OF PETITIONS
Vasquez	:	DECISION REFUSING TO
Application No. 09/458,109	:	ACCORD STATUS
Filed: December 8, 1999	:	UNDER 37 CFR 1.47(a)
Attorney Docket No. CT-317 (031614-000106)	:	

This is a decision on the petition under 37 CFR 1.47(a), filed June 10, 2004.¹

The petition is **DISMISSED**.

A petition under 37 CFR 1.47(a) is improper because all of the inventors have signed the declaration.

Once the Office receives a declaration listing one or more inventors which bears the signature of one or more of the inventors, the inventors are "set in stone" and can only be changed by a petition under 37 CFR 1.48. In this case, the declaration is signed by Vasquez and does *not* list the other inventor.

Petitioner may wish to file a petition under 37 CFR 1.48. A petition under 37 CFR 1.48(a) requires:

- (1) a request along with the fee under Rule 17(i) (\$130),
- (2) a statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part,
- (3) a correct executed oath/dec (or oath/dec as permitted by 37 CFR 1.42, 1.43 or 1.47) and
- (4) if an assignment has been executed by any of the original named inventors, the written consent of the assignee.

If (2) and (3) cannot be satisfied, a petition under 37 CFR 1.48(a) may still be granted if the Office grants a petition under 37 CFR 1.183 to waive those requirement of the rule. In general, the showing required to waive the rule in these circumstances is similar to the showing required for a petition to be granted under 37 CFR 1.47. Although the Office cannot make a determination on the petition under 37 CFR 1.183 until it is filed, the showing which has already been supplied with the instant petition may well be sufficient.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

¹ The Office is unable to locate the copy of the petition filed May 26, 2000. Therefore, the Office will use the copy of the petition filed on June 10, 2004.

By facsimile: (703) 872-9306
Attn: Office of Petitions

If petitions under 37 CFR 1.48 and 37 CFR 1.183 are filed, and a decision on the new petitions is not received within three months, petitioner may wish to call the number below to check on the status of the petitions.

Telephone inquiries may be directed to Petitions Attorney Steven Brantley at (703) 306-5683 prior to September 27, 2004, and (571) 272-3203 thereafter.



Charles Steven Brantley
Petitions Attorney
Office of Petitions